

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended, is respectfully requested.

Claims 1-14 are pending.

Prior to discussing the outstanding grounds for rejection, Applicant wishes to thank Examiner Rhode for the courtesies extended during the personal interview of November 3, 2005, at which time the subject invention was explained in light of Applicants' disclosure. Additionally, the outstanding issues in the present application were discussed, and arguments substantially as hereinafter developed were presented in support of the patentability of Claim 1. No agreement was reached, pending the Examiner's detailed reconsideration upon submission of a formal response to the outstanding Office Action and an updated search for prior art.

In the outstanding Office Action, Claims 1 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the "Integration" article by De Zen in view of Official Notice; Claims 2-4 and 6 were rejected under 35 U.S.C. § 103(a) as unpatentable over De Zen in view of Shaffer; Claims 5, 9, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over De Zen in view of Egawa; Claim 7 was rejected under 35 U.S.C. § 103(a) as unpatentable over De Zen in view of Reisman; Claims 8, 11, and 12 were rejected under 35 U.S.C. § 103(a) as unpatentable over De Zen in view of Bernard; and Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over De Zen in view of Stagna. Applicants respectfully traverse these rejections on the grounds that independent Claim 1, when considered as a whole, is neither anticipated by nor obvious over the applied references.

The present invention relates to a digital content downloading method using a network. The method includes the step of receiving information designating digital content and the quality of communication selected by a consumer, at a digital content retailer

possessing the desired digital content. The method further includes the steps of sending a request from a digital content retailer computer system to a resource reservation server for a reservation for the network managed by a network operator according to the transmission conditions sent from the consumer, providing from the digital content retailer the desired digital content at the desired transmission condition, collecting from the consumer with the digital content retailer a charge for the desired digital content including a transmission charge corresponding to the transmission condition, and paying with the digital content retailer the transmission charge to the network operator.

The interrelationships between the consumer terminal, the digital content retailer computer system, and the network operator computer system advantageously cause the network operator to become transparent to the user, who does not have to deal separately with the network operator to secure a channel of a subscriber line (Specification at 3-4) and does not have to make separate payments to the network operator for use of the subscriber line (*id.* at 4). Because the digital content retailer has centralized responsibility for requesting a network reservation, providing digital content, collecting payment, and paying the network operator, the invention promotes efficiency and reliability for user transactions by reducing the number of steps that the user must take to download content over the network.

The system disclosed in the De Zen reference does not provide the same interrelationships between the consumer terminal and the computer systems of a digital content retailer and network operator, and therefore, fails to provide transparency to the user in the manner achieved by the invention of Claim 1. In contrast to the present invention, in which the network operator is transparent to the uses, the De Zen reference requires the End User to interface with the SISTINA system directly to enjoy any of its benefits. As a specific example, the De Zen article states, "To enable the End User to enjoy the added value provided by the SISTINA Retailer it is necessary to download additional Java software in

order to make his browser TINA capable.” (Section 2.1.) Moreover, De Zen states that “in order to exploit the SISTINA value added service features, the user must enter the SISTINA world, that is he must give his user name and password.” (Section 3.) This process requires that the Internet Application Provider “propose the user to enter the SISTINA world,” resulting in even further loss of transparency. (*Id.*)

The claimed interrelationship between the consumer terminal, the digital content retailer computer system, and the network operator computer system achieve a transparency to the consumer that is not possible with De Zen. The invention of Claim 1 recites that the desired digital content transmission condition related to the quality of communication selected by the consumer terminal is received at the digital content retailer computer system possessing the desired digital content. De Zen, on the other hand, uses the SISTINA Retailer, rather than the Internet Application Provider, to receive directions from the user “in order to realize session management, integrated billing and connectivity control related operations.” (De Zen at section 2.1.) Consequently, De Zen also fails to teach or suggest the Claim 1 step of “sending a request from the digital content retailer computer system to a resource reservation server of the network operator computer system, for a reservation for the network managed by the network operator computer system according to the desired digital content transmission condition sent from the consumer terminal.” Because the End User of the De Zen reference is required to interface with the SISTINA Retailers, which serves to “mediate[] between Users and Providers of Internet Applications” (De Zen at Section 2), the transparency obtained by the invention of Claim 1 is not achieved. With the invention of Claim 1, the user (i.e., consumer) interfaces with the digital content retailer computer system rather than the network operator computer system. Because the digital content retailer of Claim 1 has centralized responsibility for requesting a network reservation, providing digital

content, collecting payment, and paying the network operator, the network operator remains transparent to the user.

With specific reference to the Official Notice taken on pages 4-5 of the outstanding Office Action, Applicant submits that it would not have been obvious to modify the De Zen reference such that the Internet Application Provider pays the SISTINA Retailer the transmission charge. The De Zen reference discloses that the SISTINA retailer, rather than the internet application provider, handles billing. (De Zen at Section 2.2.) The Billing Provider of the SISTINA system “takes care of both the charging of the dedicated real-time connections and the payments of goods/on-line services.” (De Zen at Section 2.5.) This function is performed by either the Public Network Operator or the SISTINA Retailer, and thus, the Internet Application Provider would not receive payment from the consumer for the transmission charge or pay the transmission charge to the SISTINA Retailer, particularly when the transmission charge corresponds to the quality of communication, as defined by Claim 1.

In summary, De Zen fails to centralize responsibility for various network activities with a digital content retailer, as recited in Claim 1, and therefore, does not make a network operator transparent to the user. The other applied references relate to various aspects of networking but fail to account for the above-noted deficiencies of the De Zen reference. Thus, none of the applied references, when considered alone or in any proper combination, are believed to anticipate or make obvious the invention of Claim 1. Accordingly, Applicant submits that Claim 1 and all claims dependent therefrom are patentably distinguishable over the applied references.

In view of the foregoing discussion, no further issues are believed to be outstanding in the present application. Therefore, Applicants respectfully request that the present application be allowed and be passed to issue.

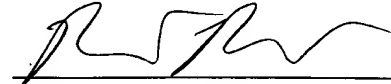
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)



Eckhard H. Kuesters
Registration No. 28,870
Robert C. Mattson
Registration No. 42,850